

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

PUBLIC SERVICE COMMISSION

JOHN F. O'MARA
Chairman
EUGENE W. ZELTMANN
Deputy Chairman

HAROLD A. JERRY, JR.
WILLIAM D. COTTER
THOMAS J. DUNLEAVY



MAUREEN O. HELMER
General Counsel

JOHN C. CRARY
Secretary

August 15, 1996

RECEIVED

AUG 16 1996

FCC MAIL ROOM

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: In the Matter of Telephone Number Portability
CC Docket No. 95-116

Dear Secretary Caton:

The New York Department of Public Service (NYDPS) submits these comments in the above captioned proceeding.

On July 2, the Federal Communications Commission released a Further Notice of Proposed Rulemaking (Notice) on Long-Term Number Portability - Costs and Cost Recovery, together with the Commission's First Report and Order implementing Local Number Portability as mandated the 1996 Telecommunications Act.¹ The Notice requested comments on the Commission's tentative conclusions and proposals relating to the establishment, deployment, cost and cost recovery for long-term number portability.²

The Commission proposes to define categories and subcategories of costs involved in establishing and providing long-term service provider number portability (§208); to limit application of Congress's "competitive neutrality" standard for establishing portability³ to number portability costs (§209); and to require that any long-term cost recovery mechanism so applied, comply with specific principles or criteria to assess competitive

¹ 47 U.S.C. §251(b)(2).

² Notice, ¶¶199-230.

³ Section 251(e)(2) of the Act states, in pertinent part, "(t)he cost of establishing . . . number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."

No. of Copies rec'd
List ABCDE

0414

neutrality¹. Notably, though indicating a preference for system architecture that uses regionally-deployed databases, the Commission concludes that the individual states should have the choice of developing state-specific databases (§211). Citing Section 251(e)(2) of the Act, however, the Commission tentatively concludes that state-specific databases should nevertheless be governed by "pricing principles established in this proceeding." (§211).

The NYDPS agrees with most of the tentative findings proposed by the Commission in its Notice. In fact, many of these findings coincide with our own experience in the Rochester Telephone Corporation Open Market Plan² and in the work of New York's Number Portability Implementation Strategies Committee, the industry group examining number portability issues in New York State.

However, with regard to jurisdiction over various aspects of number portability, NYDPS disagrees with the Commission's tentative conclusion. Section 251(e)(2) of the Act grants the Commission authority to determine the basis on which the costs associated with number portability will be borne by telecommunications carriers. Thus, the allocation of costs among carriers is within the purview of the Commission's jurisdiction. This authority, however, does not extend to the carrier's recovery of the intrastate portion of the number portability costs from their customers. To the extent that such costs are recovered through rates for intrastate service, such recovery is a matter subject to state jurisdiction.

Respectfully submitted,



Maureen O. Helmer
General Counsel
New York State Department
of Public Service
Three Empire State Plaza
Albany, NY 12223
518-474-1585

¹ To be competitively neutral, any long-term cost recovery mechanism should not advantage one carrier over another when competing for a specific subscriber; and should not have a disparate effect on the ability of competing providers to earn a normal return. (See, Notice §210 and §§130-136)

² See, NYDPS Comments on Local Competition Provisions of the Telecommunications Act of 1996 (Docket 96-98), pp. 19-20.

CC Docket No. 95-116

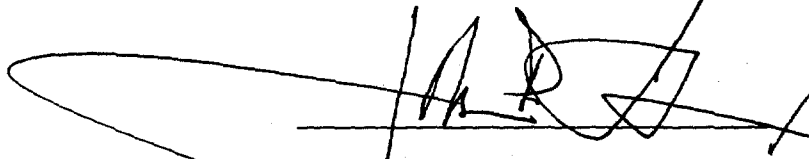
In the Matter of

Telephone Number Portability

Comments of New York State
Department of Public Service

CERTIFICATE OF SERVICE

I, John Starrs, hereby certify that an original and twelve copies of comments in the above-captioned proceeding were sent via Airborne Express to Mr. Caton, and by first class United States mail, postage paid, to all parties on the attached service list.

A large, stylized handwritten signature in dark ink, appearing to read 'J. Starrs', is written over a horizontal line.

John Starrs
Assistant Counsel
Office of General Counsel
NYS Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350
(518) 473-5245

Dated: August 15, 1996
Albany, New York

James Lanni
Rhode Island Division
of Public Utilities
100 Orange Street
Providence RI 02903

Joel B. Shifman
Maine Public Utility Commission
State House Station 18
Augusta ME 04865

Charles F. Larken
Vermont Department of
Public Service
120 State Street
Montpelier VT 05602

Rita Barmen
Vermont Public Service Board
89 Main Street
Montpelier VT 05602

Keikki Leesment
New Jersey Board of
Public Utilities
2 Gateway Center
Newark NJ 07102

Veronica A. Smith
Deputy Chief Counsel
Pennsylvania Public Utility
Commission
P.O. Box 3265
Harrisburg PA 17105-3265

Mary J. Sisak
District of Columbia
Public Service Commission
Suite 800
450 Fifth Street
Washington DC 20001

Telecommunications Report
1333 H Street, N.W. - 11th Floor
West Tower
Washington DC 20005

International Transcription
Services, Inc.
2100 M Street, NW
Suite 140
Washington DC 20037

Brad Ramsay
NARUC
Interstate Commerce
Commission Bldg., Room 1102
12th & Constitution St., NW
Washington DC 20044

William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington DC 20554

Richard Metzger
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Washington DC 20554

Camille Stonehill
State Telephone Regulation
Report
1101 King Street
Suite 444
Alexandria VA 22314

Alabama Public Service
Commission
1 Court Square
Suite 117
Montgomery AL 36104

Archie R. Hickerson
Tennessee Public Service
Commission
460 James Robertson Pky.
Nashville TN 37219

Sandy Ibaugh
Indiana Utility
Regulatory Commission
901 State Office Bldg.
Indianapolis IN 46204

Ronald Choura
Michigan Public
Service Commission
6545 Mercantile Way
Lansing MI 48910

Mary Street
Iowa Utilities Board
Lucas Building
5th Floor
Des Moines IA 50316

Gary Evenson
Wisconsin Public
Service Commission
P.O. Box 7854
Madison WI 53707

Gordon L. Persinger
Missouri Public Service
Commission
P.O. Box 360
Jefferson City MO 65102

Sam Loudenslager
Arkansas Public Service
Commission
1200 Center Street
P.O. Box C-400
Little Rock AR 72203

Jane P. Olsen
Sr. Assistant General
Counsel
Oklahoma Corp. Commission
400 Jim Thorpe Building
Oklahoma City OK 73105

Marsha H. Smith
Idaho Public Utilities
Commission
Statehouse
Boise ID 83720

Edward Morrison
Oregon Public Utilities
Commission
Labor and Industries Bldg.
Room 330
Salem OR 97310

Mary Adu
Public Utilities Commission of the
State of California
505 Van Ness Avenue
San Francisco CA 94102

Rob Vandiver
General Counsel
Florida Public Service
Commission
101 East Gaines Street
Tallahassee FL 32301

Kath Thomas
Washington U&TC
1300 S. Evergreen Park Dr., S.W.
P.O. Box 47250
Olympia WA 98504-7250

Policy and Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 544
Washington DC 20554

Myra Karegianes
General Counsel
Illinois Commerce Commission
State of Illinois Building
160 No. LaSalle - Suite C-800
Chicago IL 60601-3104

Margie Hendrickson
Assistant Attorney General
Manager, Public Utilities Division
121 7th Place East, Suite 350
St. Paul MN 55101

Robin McHugh
Montana PSC
1701 Prospect Avenue
P.O. Box 202601
Helena MT 59620-2601

Cynthia Norwood
Virginia State Corp. Commission
P.O. Box 1197
Richmond VA 23201

Deonne Brunning
Nebraska PSC
1200 N. Street
Lincoln NE 68508

Janice Myles
Common Carrier Bureau
1919 M Street, N.W.
Room 544
Washington DC 20554

Competitive Pricing Division
Common Carrier Bureau
Room 518
1919 M Street, N.W.
Washington DC 20554